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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4337 OF 2005

Shri Sunil Vasant Patil ... Petitioner

V/s

The Secretary,
Bharat Education Society & ors. ... Respondents

Mr. Mandar Limaye for the petitioner.

Mr. P.N. Shastri for the respondent Nos. 1 and 2.

CORAM: SMT. NISHITA MHATRE, J.

DATED: 12TH JULY, 2007.

P.C.:

1. The petitioner has filed the present petition against the order of the School Tribunal dismissing his application for condonation of delay. The application has been filed alongwith the appeal on 29.4.2002. The appeal and the application were filed by the petitioner who was appearing in person. He had not engaged any advocate at that point of time. The School Tribunal has found that there is a delay in filing the appeal and that the delay has not been properly explained by the petitioner. The trial Court, therefore, rejected the

application.

2. The petitioner contends that the application for condoning the delay was heard by the Presiding Officer and the matter was closed for orders. Thereafter the Presiding Officer was transferred and the new Presiding Officer has passed the present order. It appears that the advocate for the petitioner and the petitioner were not present on the date when new Presiding officer took charge and heard the matter for condoning the delay and the impugned order came to be passed on 7.3.2005. It is submitted that such an order should not have been passed without hearing the petitioner. It is also submitted that the application for condoning the delay was filed by the petitioner in person and, therefore, the reasons which are mentioned for condoning the delay are not in great detail.

3. The learned advocate for the respondent School submits that an application for condonation of delay should not be a granted as a matter of course. He relies on the judgment of the Division Bench of this Court in **P.K. Ramchandran v/s State of Kerala & anr., reported in (1997) 7 SCC 556.** It is submitted that the petitioner has also not bothered to attend the matter before the Trial Court on various dates due to which the

matter was adjourned and, therefore, no latitude should be shown to the petitioner.

4. In my view, some allowance must be made when an application is filed by a party in person. The petitioner has stated that he is a layman and that the delay of 22 days in filing the appeal is not deliberate. He has also stated that, he is not conversant with the legal procedures and remedies available and, therefore, delay should be condoned.

5 It is true that, in the aforesaid judgment, the Court has taken the view that when no explanation much less a reasonable or satisfactory explanation is offered for condoning the delay an application should not be granted. The Court must record whether the explanation in the application for condoning delay is reasonable or satisfactory.

6. In my view, the petitioner has given a reasonable and satisfactory explanation for the delay in filing the appeal. There is no doubt that the appeal was filed by him in person without the assistance of an advocate. Therefore, some latitude must be shown to the petitioner who appears in person. He has also stated in his application that he was not aware or familiar with the

legal procedure. In my view, this is a reasonable and satisfactory explanation for the delay.

7. Hence, the order impugned is set aside. The application for condoning the delay is allowed.

8. Petition disposed of accordingly.

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